IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 17385 of 2006
To
SPECIAL CIVIL APPLICATION No. 17388 of 2006

With
SPECIAL CIVIL APPLICATION No. 17579 of 2006
With
SPECIAL CIVIL APPLICATION No. 17580 of 2006
With
SPECIAL CIVIL APPLICATION No. 17582 of 2006
With
SPECIAL CIVIL APPLICATION No. 18114 of 2006
To
SPECIAL CIVIL APPLICATION No. 18118 of 2006
With
SPECIAL CIVIL APPLICATION No. 18176 of 2006
With
SPECIAL CIVIL APPLICATION No. 18178 of 2006
To
SPECIAL CIVIL APPLICATION No. 18181 of 2006
With
SPECIAL CIVIL APPLICATION No. 18183 of 2006
To
SPECIAL CIVIL APPLICATION No. 18184 of 2006
With
SPECIAL CIVIL APPLICATION No. 18240 of 2006
To
SPECIAL CIVIL APPLICATION No. 18241 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PARMAR SANJAY ARVINDBHAI & 3 - Petitioner(s)
Versus
STATE OF GUJARAT TRHO.SECRETARY & 2 - Respondent(s)

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Appearance :
MS MAMTA R VYAS for Petitioner(s) : 1 - 4.
MR SIRAJ GORI, AGP for respondent Nos.1 & 2.
MR AD OZA WITH MR DR DAVE for respondent No.3.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 30/08/2006

ORAL JUDGMENT

1. Rule. Learned AGP Shri Gori waives service of notice of rule on behalf of respondent Nos.1 & 2 and learned advocate Shri DR Dave waives service of rule on behalf of respondent No.3. At the joint request of the learned advocates appearing for the parties, this group of petitions is taken up for final disposal today.

2. The grievance of the petitioners in this group of petitions is against the Government communication dated 24.7.2006. Facts as emerging in Special Civil Application No.17385 of 2006 can be noted since in all material aspects, all petitioners are similarly situated.

3. The petitioners have passed their higher secondary examinations conducted by the Higher Secondary Education Board. For granting admission to PTC course, the State Government had issued an advertisement on 2nd May 2006 calling for interested candidates to apply. The advertisement clearly stated that those students who are interested in getting admission to PTC courses in Government, non-Government aided institutions as well as self-financed colleges should apply latest by 15.6.2006. The advertisement clearly specified that the applications are being invited for granting admission to the said institutions through centralized admission process for the year 2006-07 in Gujarati, Hindi, English, Marathi, Urdu and Sindhi medium course of 2 years.

4. It is not in dispute that the petitioners did not apply in response to the said advertisement. It is, however, the case of the petitioners that such common admission process applies only for available vacancies for Government aided institutions and vacancies of self-financed institutions excluding the management quota seats. It is also the case of the

petitioners that since last three or four years, such common admission process is being followed for such seats, whereas the management quota seats in self-financed institutions are being filled up by the concerned institutions directly through advertisement in newspapers.

4.1 In the present academic year, however, the Government issued a notification dated 24.7.2006 to various self-financed institutions running PTC colleges wherein it is provided, inter alia, that 90 per cent of the vacancies have been selected by the institutions for being filled up through the centralised admission process and remaining 10 per cent management quota seats shall be filled up in the following manner.

(1) The candidates should have applied for admission to the Centralised Admission Committee.

(2) The candidates should fulfill the necessary qualifications prescribed by the Government for PTC course.

(3) The concerned self-financed institutions shall

have to issue an advertisement and receive applications from interested candidates and grant admission on the basis of merit marks obtained in the 12th standard examination after preparation of merit list on that basis.

(4) After completion of the admission process in the above manner, the list of applications and the merit list shall have to be certified by the Director of Primary Education before granting admissions to students from such lists.

5. The petitioners opposed the first condition in the said communication. In essence, the said condition requires the self-financed institutions to consider only application of those students who had applied for admission in common admission process pursuant the advertisement dated 2.5.2006. It is the case of the petitioners that though had not applied in response to the advertisement dated 2.5.2006, their applications cannot be rejected only on that ground when they are seeking admission in the management quota seats.

6. Having heard the learned advocates appearing for

the parties, it would appear that the advertisement dated 2.5.2006 was issued only for granting admission to the Government and private aided colleges as also for vacancies of PTC colleges in self-financed institutions which admission was to be processed by the common admission committee. The advertisement was clear in this regard and the candidates who were interested in getting admissions in any of these categories were required to apply. It is stated in the petitions and to which no serious dispute has been raised by the respondents that in the previous academic years, the Government was permitting the self-financed institutions to receive applications from the interested candidates for the management quota seats. For some inexplicable reasons, this year clause 1 in communication dated 24.7.2006 has been added by the Government. The effect of the said condition would be that a candidate who had not applied in response to the advertisement dated 2.5.2006 would also be debarred from applying for management quota of self-financed institutions. As noted earlier, the advertisement suggested that applications are being invited for granting admission by the common admission committee. This committee was undertaking the task of granting

admissions only in Government colleges, private aided colleges and in non-management quota of self-financed institutions. Therefore, a student who was not interested in seeking admission in any of these categories had no reason to apply. This, however, does not mean that he would not be allowed to apply to the concerned institution in accordance with the rules for the management quota seat. At the last minute when the Government insisted that the self-financed institutions must consider only those applications of candidates who had applied earlier in response to the notice dated 2.5.2006, the same would result into injustice. The petitioners who are desirous of applying for management quota seats cannot be kept out of consideration solely on the ground that they had earlier not applied in response to the advertisement dated 2.5.2006 for category of seats other than the management quota seats of self-financed institutions.

7. Only to this extent, the petitions are required to be accepted. It is made clear that none of the other conditions are under challenge before this Court nor this Court has in any manner whittled down other conditions mentioned in the communication dated

24.7.2006 as also the requirement of fulfilling other legal conditions.

8. In the result, condition No.1 of communication dated 24.7.2006 is quashed. It would be open for the petitioners to apply for the management quota of seats of PTC course in self-financed institutions provided they fulfill necessary eligibility criteria. Their applications will be considered in accordance with rules and other conditions imposed by the Government in its communication dated 24.7.2006. To the above limited extent, the petitions succeed. Rule is made absolute to the above extent with no order as to costs.

Direct service is permitted.

(Akil Kureshi, J.)

(vjn)